

02- R-0165

A Resolution by Debi Starnes

**A Resolution authorizing the Mayor to execute a lease agreement with Southface Energy Institute and the City of Atlanta.**

WHEREAS, the Southface Energy Institute (SEI) has been located at 241 Pine St for     years, and

WHEREAS, SEI wants to enter into a lease extension with the City, and

WHEREAS, SEI want to offer educational and in-kind services City of Atlanta residents, in exchange for their lease extension, and

WHEREAS, these services would be beneficial to City of Atlanta residents,

BE IT THEREFORE RESOLVED, that the Mayor is authorized to negotiate and execute such a lease extension,

BE IT FURTHER RESOLVED< that a proposed lease agreement is attached to this resolution.

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line &amp; 11-14-00

LEASE AGREEMENT

This Lease Agreement is made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 2000, by and between the City of Atlanta, a duly chartered municipal corporation of the State of Georgia (hereinafter referred to as "City") and Southface Energy Institute, Inc. a Georgia non-profit corporation, (hereinafter referred to as "Tenant").

## WITNESSETH:

WHEREAS, by Resolution adopted by the Council on \_\_\_\_\_ 2000 and approved by the Mayor on \_\_\_\_\_ 1995 (EXHIBIT A), City, in consideration of the rents, covenants and agreements hereafter reserved, mentioned and contained on the part of the Tenant its successors and assigns, to be paid, and performed, has leased, rented, let and demised and by these presents does lease, rent, and demise unto Tenant, and Tenant does hereby take, and hire, and subject to the conditions hereinafter expressed, the premises Consist of 0.7521 acre (32,761.47 sq. ft.) located at 241 Pine Street, N. E., Atlanta, Georgia 30308, and more particularly described on EXHIBIT B attached hereto and incorporated herein and made a part hereof, and hereinafter referred to as "The Premises". The Premises are leased subject to the zoning regulations and zoning ordinances of the city, town or village in which the Premises lie;

TO HAVE AND TO HOLD, The Premises unto Tenant, its successors and assigns commencing on the 1st day of January, 2001 and to expire at midnight on December 31, 2016, or until said term shall sooner cease and expire under the provisions hereof Tenant and City shall have one option to renew and renegotiate one additional 10-year term.

This Lease Agreement is made on the following covenants, agreements, terms, provisions, conditions and limitations, all of which City and Tenant covenant and agree to perform and observe:

I. LEASE PAYMENTS

Tenant covenants and agrees to compensate City for its use of the 0.7521 acre premises by:

- Providing staff to open and operate The Premises for the public benefit at its sole expense at an approximate salary cost of \$51,600 per year; and
- Paying to City (General Fund Account # 1401 462201 8000001) by good and sufficient check or in kind in the form of educational and technical assistance

services to the City and its residents on amount equal to 3% of its "Excess Of Support and Revenue Over Expenses". "Excess of Support and Revenue Over Expenses" as used herein, shall be the product of subtracting Tenant's "Total Expenses" from its "Total Support and Revenue" as determined through a Certified Independent Auditor's Report conducted at the conclusion of each Southface Energy Institute Inc. Fiscal Year through the term of the Agreement.

The prorata lease payments for the current Southface Energy Institute, Inc. Fiscal Year shall become due and Payable upon execution and award of the Agreement. Lease payments required for the remainder of the term shall be due and payable on the anniversary date of execution and award as first written above.

## 2. AUDIT REPORTS

2.1 Tenant shall, through the services of an independent Auditor, submit to the City (specifically the Commissioner, Department of Parks, Recreation and Cultural Affairs) a Certified Independent Auditor's Report detailing Tenant's financial support, revenue, expenses, changes in fund balance and cash flow for the preceding Southface Energy Institute, Inc. Fiscal Year no later than September 30 of each succeeding year through the term of the Lease. The Audit Report shall include a determination of Tenant's Ratio of Current Assets Over Current Liabilities for the period examined.

2.2 The Independent Auditor's Report shall be conducted in accordance with Generally Accepted Auditing Standards and in compliance with GMB Circular 84-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions". The Independent Auditor's Report shall include: Statements of Southface Energy Institute, Inc.'s Fiscal Year Support, Revenue, Expenses and Fund Balance; Balance Sheets for Assets, Liabilities and Fund Balance; Fiscal Year's Significant Sources of Funding; and Fiscal Year's Annual Operating Budget, Actual Visitation and Staffing Plan.

## 3. ADDITIONAL PAYMENTS (TAXES, FEES, UTILITIES)

3.1 Tenant shall pay, during the term, except as hereinafter provided, within thirty (30) days after the same shall become due and payable (or if the bills are directed to the City rather than the Tenant within thirty (30) days after Tenant's receipt of such bills from City, provided the same are then due and payable) all real property and rent

taxes (including sales taxes with respect to rent) special, general, ordinary or extraordinary assessments, sewer rates and charges and other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, and every installment thereof, and all fees and charges of public or governmental authorities for construction, maintenance, occupation, or use during the term, of The Premises, or any passageway or space therein, over or under any sidewalk or street on or adjacent to The Premises, or for construction, maintenance or use during the term of any part of any building, covered thereby, within the limits of any street, which shall or may during the term be charged, laid, levied, assessed, imposed, come due and payable or lien upon or for The Premises or any part thereof, on any building, appurtenances, personal property, trade fixtures or equipment thereon or therein or any part thereof, or the sidewalks or streets in front of or adjoining The Premises, and all taxes, charges, laid, levied, assessed or imposed in lieu of the foregoing together with all interest and penalties thereon, under or by virtue of all present or future laws, ordinances, requirements, orders, directions, rules or regulations of the federal, state, county and city governments and of all other governmental authorities whatsoever, to the extent Tenant is subject to such taxes and charges. Tenant shall also pay within thirty (30) days after the same shall become due and payable, all charges for public or private utilities, in but not limited to, water, sewer, gas, electricity, light and power, telephone, trash removal and any other service or services furnished to The Premises or the occupants thereof during the term of this Lease. Tenant shall make all deposits required by any utility company and shall receive such services in the name of Tenant and shall pay all tap-on or related fees incidental thereto.

3.2 To the extent the same may be permitted by law, Tenant shall have the right to review by legal proceedings, instituted and conducted at Tenant's own expense and free of expense to City, any such tax, assessment, sewer or other public or private imposition fee or charge assessed against The Premises or Tenant, and in the case such impositions shall, as a result of such proceedings or otherwise, be reduced, canceled, set aside or to any extent discharged, Tenant shall be obligated to pay the amount that shall be finally assessed or imposed against The Premises or the Tenant as the case may be, or adjudicated to be due and payable on any such dispute or contested items. In the event Tenant exercises its right to review by legal proceedings, any such tax, assessment, sewer or other public or governmental imposition, fee or charge assessed against The Premises or Tenant, Tenant shall nevertheless pay and continue to pay such imposition and if there be refund, payable with respect thereto, Tenant shall be entitled to receive

any such refund to the extent that the same has been paid by Tenant. The legal proceedings herein referred to shall include appropriate certiorari proceedings and appeals from orders therein and appeals from any Judgments, Decrees or Orders, but all such proceedings shall begin as soon as reasonably possible after the imposition or assessment of any contested item, and be prosecuted to final adjudication with reasonable dispatch. The City shall, upon request of Tenant, join as a party in any such proceedings and shall execute, at the request of Tenant, all such documentation necessary to successfully prosecute such proceedings, and Tenant shall reimburse City for any out-of-pocket expenses incurred in connection therewith. Tenant agrees to protect and hold City harmless against any such taxes, assessments, sewer or other public or governmental imposition or charge.

3.3 In default of any payment called for herein by Tenant for fifteen (15) days after said imposition shall have become due and payable, City may, but shall not be obligated to pay the same, plus any interest and penalties and any amount so paid, with interest at twelve (12%) percent per annum may be added to and collectible as additional rent hereunder. A bill or receipt issued by the taxing agency shall be deemed as conclusive evidence of the amount of tax and the amount paid.

#### 4. PERSONAL PROPERTY TAXES

Tenant shall pay to the extent Tenant is subject to such taxes, promptly all personal property taxes and all other taxes levied against its trade fixtures, equipment, supplies and merchandise upon The Premises and against its businesses.

#### 5. CONSTRUCTION OF DEMONSTRATION HOUSE

5.1 Tenant agrees to develop and construct or to cause to be developed and constructed on The Premises, the Southface Demonstration House hereinafter referred to as the "House". The House shall comprise approximately 6,000 square feet and be of sound design and constructed of good materials in a good and workmanlike manner, in accordance with the requirements of all applicable laws, ordinances, and regulations of duly constituted authorities having jurisdiction thereof. Tenant shall submit plans and drawings to the Neighborhood Planning Unit (NPU), the Urban Design Commission (UDC) and the Department of Parks, Recreation and Cultural Affairs (DPRCA) for official review and written approval prior to the start of any construction.

**LARGE ATTACHMENT:**

**DOCUMENT(S),**

**MANUAL(S)**

**OR**

**MAP(S)**

**NOT COPIED,**

**PULL ORIGINAL  
FOR COPY OR TO VIEW**